



Social Media Considerations

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9 Steps to Building a Good Digital Citizen

1. Etiquette
2. Communication
3. Literacy
4. Access
5. Commerce
6. Law – and ethics
7. Rights and responsibilities
8. Health and wellness
9. Security

Privacy: Is There Any?

- The civil rights issue of this decade.
- “Is There a Spy in Your Stacks?” – and now as a lawyer.
- Balance between privacy and security.
- NSA activities post-9/11
- U.S. Postal Service
- International communications and laws in other countries – anytime something crosses an international border (cloud computing, email, telephone calls)
- DNA samples from arrestees – upheld by Sup. Ct.
- Technology that automatically collects information (cameras, affinity cards, ordering online)
- Large databases of information and data mining

Risks with Social Media

- Recent court cases make it clear that nearly every piece of information provided to social media sites is discoverable and admissible in court (even in criminal cases – see *Clark v. State of Indiana*).
- Courts have reviewed the language in user agreements from Facebook, MySpace and the like to determine that users should have little to no expectation of privacy for the materials they post to their profiles or choose to share with others.
- Some are challenging this under the Stored Communications Act (SCA) with limited success.
- Moreover, once the information is there, it should be considered nearly permanent, at least for the foreseeable future.
- May be a duty not to then remove this information if there is a dispute (litigation, investigation, etc.) – could be considered spoliation and then parties are subject to sanctions

Who Might Be Interested?

- Current and future employers
- Law enforcement
- Government monitoring
- Lenders
- Insurance companies
- Attorneys (“and the lame shall walk”; “The Dirtmeister”) – also looking at you as potential jury members
- College admissions personnel
- Media
- Future colleagues, in-laws, romantic partners, etc.

Suggestions for Social Media

- One strategy that seems simple to implement as a way to separate one's personal from one's professional identity online is to use more than one provider.
- For example, LinkedIn tends to attract an audience that is interested in connections for professional purposes, including job hunting, collaborations, networking and other opportunities.
- It might be best to use LinkedIn as the provider for a professional persona, while using Facebook for more personal kinds of information – with the caveat to still be very judicious about the information that is provided.

Suggestions

- Understand and use the privacy settings.
- Read the privacy policies carefully – as there are many instances where Facebook, etc. will retain and provide access to your information.
- Be careful who you “friend” – in some cases, this can cause ethical issues.
- Be careful what you would post (would you want your grandmother/boss/professor to see it?)
- Choose appropriate profile pictures.
- Google yourself.
- Stay away from the computer if you have been drinking.
- Watch what you post if you are angry, discouraged, etc.

Suggestions

- Don't post anything that could show illegal, discriminatory or unethical behavior.
- Don't post sexually explicit photographs or content.
- Don't post anything that could be threatening towards someone else.
- Don't post anything that could be defamatory towards someone else (only what is true).
- Don't post personally identifiable information – risks include identity theft, medical insurance fraud, stalking and child predators.

How to Behave on Social Media: Basic Rules for College Students

- Do Unto Others As You Would Have Others Do Unto You.
- One Picture Is Worth a Thousand Lawsuits.
- You Can't Take the Fifth (5th) After the Fact.
- How to Become a Registered Sex Offender.
- Character Self-Assassination.
- Putting up hate speech.
- Making terroristic threats.
- You Don't Have the Right to be Wrong... or Rude.
- When in Doubt, Don't.

Legislation for College and University Students

- H.R. Social Networking Online Protection Act (federal)
 - Amends the Higher Education Act of 1965 and the Elementary and Secondary Education Act of 1965 to prohibit certain institutions of higher education and local educational agencies from requesting such password or account information from students or potential students. Prohibits denial of admission, suspension, expulsion, and other discipline or discrimination against students who decline to provide such information, file a complaint, institute a proceeding, or testify in any related proceeding.
- Example of a state law: Oregon
 - Universities and colleges cannot compel a student to provide passwords to social media accounts – Senate Bill 344 and House Bill 2654

Any Questions?

